

**STAFFORD COUNTY
PURCHASE OF DEVELOPMENT RIGHTS
COMMITTEE MINUTES
February 24, 2009**

The meeting of the Stafford County Purchase of Development Rights Committee for Tuesday, February 24, 2009, was called to order at 7:07 p.m. by Chairman Tom Coen in the A,B,C Conference Room of the County Administration Building.

Members Present: Coen, Apicella, Clark, Kurpiel, McClevey and Silver

Members Absent:

Staff Present: Neuhard, Baker, Schultis, Stinnette, Lott and Smith

Others Present: Paul Milde

Mr. Coen stated the first order of business was the election of officers and he would turn the meeting over to Mr. Neuhard.

2. Election of Officers

Mr. Neuhard stated he would like to call for the election for the Chairman of the Committee and asked for nomination from the floor.

Ms. Clark nominated Tom Coen.

Mr. Silver seconded.

Mr. Neuhard asked if there were any other nominations.

Hearing no other nominations, Mr. Neuhard asked the Committee to vote.

The motion to elect Mr. Coen as Chairman passed 6-0.

Mr. Neuhard stated he would turn the meeting over to Mr. Coen.

Mr. Coen asked for nominations for Vice Chairman.

Mr. Silver stated he would nominate Patricia Kurpiel.

Ms. Kurpiel stated she would decline.

Ms. Clark nominated Steve Apicella for Vice Chairman

Mr. McClevey seconded.

Mr. Coen asked if there were any other nominations.

Hearing no other nominations, Mr. Coen asked the Committee to vote.

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The motion to elect Mr. Apicella as Vice Chairman passed 6-0.

Mr. Coen stated he did not think the Committee had to vote on the position of Secretary.

Mr. Neuhard asked Mr. Coen if he would like staff to continue.

Mr. Coen stated yes.

3. Approval of Minutes – June 24 and August 12, 2008

Mr. Coen stated the next item would be the approval of the meeting minutes for June and August.

Mr. Neuhard stated those were sent to the Committee by email. He stated staff could go print them for the Committee if needed.

Mr. Coen asked if there were any corrections or changes.

Ms. Kurpiel asked if the Committee could defer and vote on the minutes at the next meeting.

Mr. Coen stated he would need a motion to defer.

Mr. Apicella made a motion to defer the minutes.

Mr. Coen seconded.

The motion to defer the minutes passed 6-0.

Mr. Neuhard asked if the Committee could defer to unfinished business, to allow Mr. Smith to start with the easement form issue.

Mr. Coen stated yes.

5. Unfinished Business

- Easement form

Mr. Smith stated he reviewed the Deed of Easement as requested. He stated he did tweak the form some to make it work for Stafford's program. He stated there were places where the language in the both the old form and the Virginia Outdoor Foundation (VOF) form were the same and sometimes he had to put in the language from the old form because in his opinion, was clearer. He stated the places the VOF form had language the old form did not, he left it as it was to allow the Committee to comment on the language. He stated the biggest change was concerning the whereas clauses and support for what the Committee was doing, when the Committee gets into a specific property, we can insert what that property would bring to the table and how that would support the program. He stated he left the riparian buffer information in to allow the Committee to comment on and as you can see VOF strongly recommends a riparian buffer on page 9 running on to page 10.

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There was a brief discussion between the Committee and Mr. Smith concerning the length of Deed of Easement and the “whereas clauses”.

Mr. Smith stated traditionally this information was included up front but he could certainly toy around with trying to move it later or incorporate it possibly as an attachment. He stated he could also talk to Mrs. Roberts and Mr. Howard, concerning if it would have any legal impact if it were moved elsewhere other than the very beginning of the Deed of Easement.

Mr. Neuhard stated it sets up the whole agreement and he was trying to think of where it should be moved, because you cannot set the agreement up post... Staff could certainly take a look, but if you look at the Deed of Easement, it sets up the relationship. He stated some of the other pieces could be moved but some if it would not make sense any place else. He stated the authority portion could be moved, but it may not be a clean move, some would have to stay.

Mr. Apicella stated in his opinion, when the average citizen reads this, their head may start to spin by the time they got to page two. He stated the most important question they may have would be what was the county going to give them for their property.

Ms. Kurpiel stated this document was going to be prepared by a land use attorney and in her opinion the purchase agreement would lay out what the landowner would get and would be much simpler. She asked if the land use attorney would actually draw up the document.

Mr. Smith stated yes, what was presented was just a starting point and the land use attorney could take it and modify it. He stated it would then come back to the County Attorney’s office for approval and then the Committee for approval.

Ms. Clark asked if the hundred feet was on each side. That would be two hundred feet for a working farm, that maybe forty or fifty acres. She asked if that would have any affect on the number of development rights.

Mr. Lott stated the RPA itself was not looked at specifically. He stated to speak to the buffer, as agricultural properties, the County does not enforce the Chesapeake Bay Act on those properties that are active farms. He stated the Tri-County Soil and Conservation Service was the one that looks at requirements for Chesapeake Bay. Stafford County does not go out and enforce those buffers from the stream.

Ms. Clark asked if it was the middle of a hay field with an intermittent stream, would one hundred feet on each side have to be forested or natural vegetation.

Mrs. Baker stated forested or natural vegetation.

Mr. Silver stated when they installed the hog streams and fenced the pond area, there was a certain restriction that did not have to be treed that could not be disturbed.

Ms. Clark stated she could work with twenty.

Mr. Silver stated he could not afford to give up that much and they reached a compromise.

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Mr. Lott stated there may be multiple streams on a property. He stated there may be others with a stream intact and some that have been cleared and you could negotiate at the time the Deed was signed as to what type of buffer would be obtained.

Mrs. Baker stated perhaps plant additional ground cover, to make up the width.

Mr. Coen asked if the hundred foot buffer was recommended just in theory and would be negotiable

Mr. Silver stated he would suspect anyone that puts in an application would already have an established practice they have been doing for a number of years and the Committee would have to look at what was there, the runoff and determine if you would need to buffer that water.

Ms. Kurpiel asked if he meant USDA practices.

Mr. Silver stated there are all sorts of things you would have to do.

Ms. Clark asked if the one hundred foot buffer recommended could be left out and say it would be negotiable.

Mr. Neuhard stated perhaps leave it blank, like it is and remove the parenthesis. He stated the Committee would know when they talk to the applicant.

Mr. Smith stated you could say "a buffer strip is recommended" and if one was imposed and the size could be determined.

Mr. Neuhard stated you would not want to say in the agreement it was negotiable because the whole agreement was negotiable. He stated as long as a blank was left in, the Committee would know the guidelines, and what they were looking for and would be talking to the applicant about those.

Mr. Coen asked if the Committee wanted to take the parenthesis out and leave the rest of it in, or do you want to take some time to look at it.

Ms. Kurpiel stated after reading the document she was satisfied and would prefer to leave what the Committee would like to have in. She stated we might not get it, but in her opinion a one hundred feet was a good buffer and did the job.

Mr. Lott stated Virginia Department of Forestry, and you could clear cut the land up to fifty feet and selectively cut the fifty feet closer to the stream. He stated if you would go beyond that it would no longer be considered a forestry act and the County could enforce the Erosion and Sediment Code at that point.

Mr. Apicella stated he would recommend it be out because he does not want to scare anyone away from.

Mr. Lott stated ninety percent of the RPA perennial streams are within areas of hydric soils which would be removed in the equation. He stated there were areas in the County where there were big streams with soils that were not identified as hydric along the Rappahannock River, there are different soil types.

Ms. Kurpiel asked Mr. Lott to repeat that statement.

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Mr. Lott stated there are areas along the Rappahannock River that have a soil type that are not identified as hydric soils.

Ms. Kurpiel stated perhaps because of the elevation.

Mr. Lott stated it was the local geology in the area.

Mr. Silver asked if he understood that this document was actually prepared by the applicant's attorney with this as a guideline.

Mr. Smith stated correct.

Mr. Silver stated he had no problem with using this as a guideline because whatever attorney was preparing it would adjust it to meet the needs of the applicant. He stated it would then be the responsibility of the Committee to see if that would be acceptable.

Mr. Coen asked if the Committee was in agreement or not to put it in the parenthesis for A and B. He stated Ms. Kurpiel was in favor and Mr. Apicella was not in favor so it would be up to the body to decide.

Mr. Silver stated his feeling was it may be a moot point depending on how the applicant was using the land. It may be something the applicant does not care about because the use of the land will not be changed. He stated he thought it would be something that would be negotiated.

Mr. McClevey stated he would like to see it out.

Mr. Coen stated since it was negotiable he would leave it blank and suggested it be taken out in both A and B. He asked if there were any other changes.

Mr. Apicella stated on page 7 under ii it says "the Board of Trustees" and asked who that would be.

Mr. Smith stated he missed that and thanked Mr. Apicella for pointing it out. He stated it would not be applicable.

Mr. Coen asked if it needed to be in or not.

Mr. Smith stated he did not feel the Committee would be responsible if it was not in.

Mr. Apicella stated it said "the parties here agree and understand that any value of this Easement claimed for tax purposes" and moved on to say "must be fully and accurately substantiated by an appraisal". He stated he wanted to make it clear that the County was not paying for the appraisal.

Ms. Kurpiel stated when contacted by the applicants attorney, she would hope that the annotated version would be given to them. She stated she felt it helps to explain and in the end would save a lot of time.

Mr. Coen asked if there was an agreement on the draft easement.

Mr. Apicella made a motion to accept with changes.

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Ms. Kurpiel seconded.

Mr. Silver asked if all the provision of the easement were in the document.

Mr. Smith stated correct.

Mr. Silver asked if it addressed withholding development rights.

Mr. Smith stated he did not think so.

Mr. Silver stated it would need to be addressed.

Mr. Smith stated yes, it would have to be addressed.

Mr. Apicella stated if you were to define the parcel and it was not in that parcel it would not be part of the easement.

Mrs. Baker stated on page 7 under the bold 2 item 2 talks about the types of structures.

Mr. Neuhard stated that was where it would be modified to pick that up.

Mrs. Baker stated if the applicant were planning to pick up more than one it would have to be excluded from the easement area. She stated it would have to be surveyed out separately.

Mr. Silver stated one would be held back in general terms and not designated where it would be.

Mrs. Baker stated it would be within the easement.

Ms. Kurpiel stated there would be a diagram that shows where it would be located, because that would also impact the value.

Mr. Neuhard stated it would be identified on a plat.

Mr. Silver stated so it would need to be surveyed and identified.

Mr. Smith asked if the Committee was still talking about the one future single family dwelling.

Ms. Kurpiel stated it should be noted on the survey.

Mr. Silver stated that was not the same as a survey locating the parcel with the road and everything identified.

Ms. Clark stated she thought it was a notation not a survey.

Mr. Neuhard stated this was how it reads and the Committee could interpret what was written. "The following structures may be established: (a) One (1) single-family dwelling per 100 acres with location approved by the Grantee, and approved location identified on a plat of survey entitled _____, which plat is dated _____ made by _____, a copy of which is recorded in the Clerk's Office of the Stafford

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County Circuit Court, Virginia as Instrument number _____. (b) Accessory structures such as outbuildings, swimming pools, gazebos, garages and tool sheds, and (c) farm buildings and structures”.

Ms. Kurpiel stated she thought it was a plat already recorded.

Mrs. Baker stated she spoke to Isle of Wright today and they do not require a new survey.

Ms. Kurpiel stated you would take your existing survey and mark where you would intend to put this. She asked if that then would have to be recorded or would that piece of paper go with the permanent documentation files.

Mr. Smith stated, in his opinion, any plat that identifies the area should be recorded along with the deed of easement as an attachment if it was not already recorded in land record.

Ms. Kurpiel stated she did not think it would have to be, it would be part of the background report.

Mr. Smith stated the baseline documentation.

Ms. Kurpiel stated yes, it would be part of the baseline documentation.

Mrs. Baker stated except if the applicant were to sell the property and there was one dwelling shown.

Mr. Smith asked was the question would the applicant have to do a new plat if they have an existing plat that accurately identifies the future home site. He stated if there was an existing plat, as long as it was adequately references in this deed of easement, he did not see a reason why a new plat would be needed.

Mr. Silver stated record language that says you are entitled to, not a new plat.

Ms. Kurpiel stated your existing plat would be recorded with your deed of easement. She stated the applicant would take the survey and mark where they wanted the house and driveway and that document would be recorded with this deed of easement to show the world this would be allowed.

Mr. Apicella asked if a specific spot on the map was permissible with a house on it.

Mr. Coen stated this would require some forethought. The Committee would have to let the applicant know ahead of time.

Ms. Kurpiel stated the applicant would have to lay out, in the case of A-1, a three acre site. She stated she liked that Isle of Wright did not require a new survey.

Mrs. Baker stated you would not be subdividing off a three acre site.

Mr. Smith stated if something were to go wrong and the home site became unavailable, there was a provision to amend the easement in the future as long as it was as restrictive as the original deed of easement. He stated he would think if for some reason the spot chosen would not perk, the site could be moved if it did not impact the easement and would be an appropriate amendment to the deed of easement.

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Mr. Coen stated they Committee would wait for the language.

Ms. Kurpiel asked if the County was asking for title insurance and asked what document explained to the applicant they would need to provide the title policy.

Mrs. Baker stated that was a question that came up last week and still had no answer. She suggested that be discussed a little more.

Mr. Apicella stated he agreed with the requirement but did not think the County should pay.

Mr. Neuhard asked if that would go under the section of title on page 13 number 3, and asked if it could be added at the end as a statement.

Ms. Kurpiel stated Grantor should be responsible to provide title policy to Grantee.

Mr. Smith stated he did not think it had to be in the deed of easement.

Mr. Coen stated they would move on to staff update.

4. Staff Update

- Pilot Program update

Mrs. Baker stated she wanted to report back on the public meeting. She stated approximately forty people were present and received a good response. Two applications have been submitted totaling eight-seven acres and staff was going through the criteria. She stated staff wants to figure out the format to present the information to the Committee. She stated positive comments have been coming out and have received a good response.

Mr. Schultis stated a number of people making phone calls and coming in to the office asking questions. He stated he actually spoke to two people today and there seems to be interest coming in.

Mr. Apicella stated there were people that took time to come to the meeting, but what about the others.

Mr. Neuhard stated staff could send something to the folks that signed in.

Mr. Apicella stated maybe something like here is the web site.

Mr. Neuhard stated that would not be a problem.

- Webpage

Mrs. Baker stated the person in the office was trying to revamp the Planning and Zoning webpage and it could be accessed under PDR or on the main page. She stated if the Committee had any comments or suggestions for information that should be posted, please let her know.

- Mortgage liens

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Mrs. Baker stated there were questions whether people with mortgages could be considered for the program. She stated it appears the mortgage holder would have to agree to subordination of the mortgage and that would need to be prepared in advance.

Ms. Kurpiel stated it needed to be signed by the lender.

Mrs. Baker stated correct. The applicant has to get something from the lender up front which states the lender was aware.

Mr. Coen stated Mrs. Baker would address the three papers she handed out. One was an annual progress report, one was program assessment draft and one was stewardship and monitoring plan.

- VDACS status report
 - Monitoring report
 - Program assessment process

Mrs. Baker stated part of the agreement with VDAS requires the County a progress report, and a monitoring plan. The first one, the progress report, has five items to be addressed. She stated one thing needed, looking at the monitoring printout, was language regarding monitoring the property and we took this from the existing Ordinance and the VOF manual guidelines. The baseline documentation was not very detailed at this point but was something she felt would be something that could be built upon and have in writing. She stated the annual program assessment was what the Committee and staff would be doing as they go through the process to review the applications. She stated this needs to be turned in by Thursday.

Mr. Neuhard stated the most important of the Annual Program Assessment was the review of the program. All of this could be modified and changed as we go through the process.

Ms. Kurpiel stated based on documentation, would staff prepare the baseline data because the owner may not present the information accurately.

Mr. Neuhard asked what page she was discussing.

Ms. Kurpiel stated Stewardship and Monitoring, the third bullet down, baseline documentation.

Mrs. Baker that was certainly possible and yes staff will confirm what was on site.

Mr. Neuhard stated a site visit.

Ms. Kurpiel stated this may not be very important, but on the one dated February 26, 2009 on page 2, the first paragraph "Utilizing this methodology precludes the need for an appraisal of the property by Stafford County" may not be true as the owner may get an appraisal for tax purposes.

Mr. Coen asked if anyone else had questions. Hearing none he stated in view of the timeframe they would move on. He asked if staff already started the ranking.

Mrs. Baker stated staff would do the ranking as they come in.

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Mr. Neuhard stated there may be questions when going through the criteria that may need to be brought back to the Committee to discuss in the meetings and this would allow time to do that.

Mr. Coen stated let's move on to New Business.

6. New Business

- Quantico Easement Program
- Discussion - Public meeting follow-up and pilot policy questions

Mrs. Baker stated the Board of Supervisors had requested that staff forward information on to the Committee concerning the Quantico Easement. She stated it basically gets to the same end, to have property buffer the base, but their program works a little differently from Stafford's and there was a discussion how the two could tie in together. She stated the Board wanted the Committee to know that staff has actually met with the Quantico folks and had a follow up meeting with the property owners that Quantico was interested in approaching. She showed a map and explained the colors and priority ranking in the areas that Quantico would like to see some type of easement or purchase of property. She stated there would be a public meeting in the Board Chambers and would be co-hosted by the Economic Development Department and Quantico on March 9, 2009 at 6:30 pm. She stated they will be sending out notices out to those targeted properties and would be discussing the programs. She stated the Board did not request any particular action, just wanted the Committee to be aware of the program. Eventually it would be up to the Board to determine if they are going to want the County to partner with Quantico.

Mr. Neuhard stated we are participating in the March 9, 2009 meeting and staff will say a few words at the end of the meeting about our program and answer any questions or follow up. He stated he thought the big question in everyone's mind was, how does the County partner with the Base on this initiative? He stated the Base has targeted properties, and they have a long process that they go through to acquire the money and approval, but the program was set up to partner with other localities and there was an expectation at some point that if there was money available in the County that we would somehow get involved. He stated the question was where would our funding come from and he did not know how long it would be before the first property went through that process. He stated Quantico was actively talking to the Izaak Walton League and since it was a partner program, so they will be looking to Stafford for fifty per cent of the money.

Mrs. Baker stated to give you a little background on the program, they typically identify a property first and then figure out the money necessary to purchase.

Ms. Clark stated she was glad they are actually doing this because when we first heard about this, Quantico was not going to go to the property owners directly

Mr. Coen stated he had a few questions and asked if the partner was to provide fifty-fifty or seventy-thirty.

Mr. Neuhard stated fifty-fifty and Stafford would be co-easement holders unless it would be put in VOF or something like that.

Ms. Clark asked if Quantico had decided if they were going to do development rights.

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Mr. Neuhard stated no, this was not about development except to the extent Quantico does not want any encroachment development. He stated he thought Quantico used an appraisal method.

Mr. Silver asked if they wanted to buy the property outright.

Mr. Neuhard stated no, Quantico wants to place a perpetual conservation on the property and the contribution from Stafford was one of the things talked about.

Mr. Coen asked if any of those landowners were at the meeting Stafford held.

Mr. Neuhard stated yes.

Mr. McClevey stated he was excited about the program.

Mr. Neuhard stated staff has requested that Quantico hold this meeting because they were hanging back on what they were doing and our feeling was you have identified this and you need to talk to people. He stated it has come through Economic Development because of BRAC and that was how through the Quantico Growth Management Committee some of this started coming up even though Stafford had reviewed the program. He stated there was some change in management and our Economic Development people encouraged Quantico to talk to all the landowners and provide an opportunity for them to hear this and Stafford agreed to tag on the back. He stated Quantico has been less than aggressive in terms of system wide invitation and discussion with the landowners. He stated we will see how many people come to learn and understand because there was an opportunity, but it was a different kind of opportunity. He stated he thought staff wanted to have a discussion about some of the policy issues that are starting to emerge at this point because there are things that staff was learning and want to bring it to the Committee.

Mr. Lott stated there were five sections in the ranking and he explained and reviewed them in detail.

Mrs. Baker stated they did not round up because a landowner was required to have a minimum of 20 acres to be in the program. If a landowner only had 19.99...

Ms. Kurpiel stated perhaps you could round up every number except 20, which would be rock bottom.

A brief discussion ensued between the Committee and staff concerning rounding numbers up or down.

Mr. Neuhard stated staff came to the conclusion that the absolute was the absolute. If that was the acres the landowner had and it fell within a range that would be it. He stated that took all the questions and debate out and you would never have a problem, but that was why staff was asking the Committee.

Additional discussion ensued concerning rounding numbers.

Mr. Neuhard stated it is what it is and if the Committee wanted to change the Ordinance so it would help in someway, they would have to make a note and deal with it after this round.

Mr. Coen stated they should keep a running note of issue that came up.

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Mr. Lott stated another issue was question 1C which was “parcel contains active farmland and the majority zoned A-1 and the applicants property was zoned A-2. He stated when he reads this he interprets that the landowner does not get any points. He stated there were two questions on this item. The landowner has active pasture land and everything else if fine they should get points, but it says A-1 and does not mention A-2 and he did not know how to score it.

Ms. Kurpiel stated the Committee should have amended the ranking to include A-2.

Mr. Neuhard stated A-2 was included in the original. What was the debate around that question?

Ms. Kurpiel stated it was never put in.

Mr. Neuhard stated that was why he was wondering why the criteria did not have it in there. Was it just an oversight?

Mr. Coen stated it was just an oversight.

Mrs. Baker stated she did not recall if the Committee was trying to rank the A-1 higher.

Ms. Kurpiel stated you would be talking about a lot more money for a lot less land in A-2.

Mr. Neuhard asked how many can be developed on the A-2 verses how many can be developed on the A-1.

Ms. Kurpiel stated it was one acre per A-2 and three acres for A-1.

A brief discussion ensued between the Committee and staff regarding A-1 and A-2 properties.

Ms. Kurpiel stated when the value was set the Committee was discussing A-1 and now since they have added A-2 she felt the value of those parcels was overstated if the Committee was going to pay thirty thousand dollars for a development right in A-2.

Additional discussion ensued.

Mr. Neuhard stated we could go back and look at the formula because you would still be retiring development rights but in the case of A-2 those development rights would be denser than A-1. The Committee and staff had additional discussion concerning A-1 and A-2 ranking and points.

Mr. Neuhard stated the Committee was currently in a process where A-2 would get zero points. He stated because we are trying to make it transparent and because the Ordinance was cited and everyone has been told this was what was going to be done. He stated if someone in A-2 was given points and the criteria does not show them getting points, it may cause problems because it only states A-1. He stated if the Committee was going to include A-2 they would need to have a credible answer for applicants as to why it was done and why it was not included.

Ms. Clark asked Mr. Lott what was the category was for farm land.

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Mr. Lott stated he could read it and stated “the parcel contains active farm land with a majority zoned A-1” and beneath that in brackets active agricultural land, pasture land.

Mr. Neuhard stated it was about the land itself and what it was being used for.

The Committee had a brief discussion concerning the category and the point value. Mr. Apicella asked Mr. Neuhard for his recommendation.

Mr. Neuhard stated staff spent a lot of time talking about this issue. He stated if you take it literally there are no points for A-2 and we would have to see what kind of difference it makes overall. He stated currently there are only two applications and you would only be resolving it for this time because at the end the Committee will make recommendations to change things. He stated the Committee needed to remember this was for the pilot and the real question for staff was the transparency. At first staff said to treat the properties equally, because they were both grazing farmland. He stated after a long discussion it all came back to the transparency which was very important and you would have to go literally by what was stated. He stated that did not mean it did not need to be addressed for the next round, but it would have to be updated correctly.

Mr. Coen asked if it had to be over one hundred acres.

Mr. Lott stated he had another question, can the amount of grazing land be estimated using an aerial photograph on the county GIS?

Mrs. Baker asked about points.

Mr. Lott stated he gave them 0-4 points.

Mrs. Baker asked how many acres.

Mr. Lott stated just over 20 acres that was clear and could be used for grazing.

Mr. Silver asked about timberland.

Mr. Lott stated that was his other question. He stated again a literal interpretation of this and he did not know what the intent was, silvaculture gets no credit. He read “crop land or pasture land that has been harvested or grazed during the preceding year or three of the previous five years”. This definition would preclude silvaculture”. So by interpreting that they would not get any points. He stated a landowner came in with a parcel which was completely forested, and it was ninety plus acres. He stated he did not know because anything could be timbered as by-right use in A-1.

Discussion ensued between the Committee and staff.

Mr. Coen stated he thought it would have to be revisited.

Mrs. Baker stated in the definition of agricultural use it does say silvaculture and the only thing that distinguishes this from agricultural land was the part about harvested or grazed in the preceding year or three out of the past five years.

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The Committee had a brief discussion concerning the definition read by Mrs. Baker.

Mr. Silver asked if the Committee had to defend their usage of the three hundred thousand dollars on farmland as opposed to silvaculture.

Mrs. Baker stated silvaculture was included.

Mr. Lott stated one way around this in the future would be to bump up the points for question 4A.

Ms. Kurpiel stated maybe the solution was that staff should stick to exactly what the words say.

Mr. Lott stated a large parcel could outscore the others because of the size.

Mr. Apicella stated since the Ordinance has been passed, how can the criteria be changed.

Mr. Neuhard stated the criteria can not be changed. It was a matter of how the criteria would be interpreted.

There was a brief discussion between the Committee and staff concerning interpretation.

Mr. Apicella asked if the definition would prevail.

Mr. Smith stated his problem would be if the land was agricultural, that was more a title or general reference because it was then more specific. He stated you would have to read the crop land or pasture land that has been harvested etcetera, etcetera to inform the first portion. Yes, you would have to refer back to the definition, but in his opinion, the definition has further amended it by the additional information provided. He stated staff would have to determine if they would ever consider crop land or pasture land that has been harvested or grazed. Would staff ever refer to silvaculture land as crop land or pastureland.

Ms. Kurpiel stated no.

Additional discussion ensued between staff and the Committee.

Mr. Coen stated this item should also be put on the list and perhaps better definitions of the terms may help.

Mr. Neuhard stated there was one more to discuss.

Mr. Lott stated he has a question regarding question 4-A, the Virginia Department of Conservation and Recreation (DCR) Ranking. He stated based on his understanding of DCR, Natural Heritage division modeling is a generalized landscape model and a parcel may have multiple rankings. He stated this came up with the application near Crows Nest. Approximately twenty acres of the fifty acre parcel was in category C-2. Should the applicant get the maximum points for the highest ranking category?

Ms. Clark stated scale it.

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Mr. Lott stated these lines are arbitrary and drawn by a computer, they are not surveyed and no one has actually gone out there and done this area. The line could easily be off by one hundred feet, so by scaling you are putting some sort of reality on the lines.

Mr. Coen asked as opposed to what.

Mr. Lott stated as opposed to someone actually going out to the property and doing a survey.

Discussion ensued.

Mr. Neuhard stated the choice was to do it by portion based on what we have as a documented map or give the applicant full credit. He stated his position does not change for the sake of transparency.

Mr. Apicella stated he thought you would give the applicant full credit.

Ms. Kurpiel stated if it was just a portion, then they would be getting full credit for nothing.

Additional discussion ensued between the Committee and staff concerning criteria, points and percentages.

Mr. Smith stated in other places you have allowed applicants to receive a certain amount of points based on percentages and that was not present in this problem.

Mr. Neuhard stated if you take the highest ranking on the property that would be dominant over the entire property. He stated that should be written down because that may be something that would have to be explained and it would also be defended by legal counsel because he said because it was done one way over here it should be done the same way over here. He asked the Committee if that was enough for tonight.

Ms. Clark stated yes.

Mr. Neuhard thanked the Committee and stated this was what the pilot was about.

Mr. Coen asked if staff could send questions ahead of time so allow the Committee time to mull it over.

Mr. Neuhard stated staff would do their best, but there was not dedicated staff for this program and everyone was working on tons of projects and every day they were balancing balls. He stated staff did schedule meeting and debriefs and the entire staff was working on many other things and do not have the time. He stated he understood what was asked, he was just adding some reality and could only ask so much of staff. He stated if possible, staff would forward the issues to the Committee.

Mr. Smith stated he would like to remind the Committee that anything that was sent out by email would be available to the public under the Freedom of Information Act. He stated if discussion was too frequent, there may be some trouble with the open meeting regulations.

Mr. Coen stated even if the Committee was told looking at Section 3, some things came up.

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Mr. Smith stated he did not want to dissuade anyone from email, he just wanted to advise if it was done with great frequency, it may appear that you were trying to have a meeting without holding a meeting.

Mr. Neuhard stated when staff identifies areas with issues, and that information could certainly be sent to the Committee.

Ms. Kurpiel stated Stafford was clear cutting five hundred acres to put in Rocky Pen Reservoir and perhaps we should talk to the Utilities Department concerning mitigation of some sort in terms of trees. She asked how many trees were cleared in 500 acres, and what was the cost to purchase or plant them and those numbers added up to approximately 7.2 million. She stated when she saw the stimulus opportunity where they asked shovel ready projects she thought there may be an easier way to mitigate the loss of five hundred acres of trees. She stated she thought about the PDR program, and instead of going out and planting five hundred acres worth of trees we could ask for the conservation easement on the equivalent of five hundred acres worth of forest. She stated she ran the numbers which totaled one hundred sixty-seven development rights at \$30,000 would equal a little over five million dollars. She stated she was proposing that the PDR Committee enter this stimulus item on the website that the State has furnished.

A brief discussion ensued between the Committee and staff concerning mitigation.

Mr. Neuhard stated the Board has already identified their stimulus programs and tomorrow night the sub-committee they appointed will be looking at those and prioritizing. He stated each one of their projects, which includes Rocky Pen Reservoir and all the infrastructure issues the County has are somewhere in there and are being identified against the criteria.

Ms. Kurpiel asked whose criteria.

Mr. Neuhard stated against what the Federal Government put out. He stated for example, Rocky Pen Run was not in the flex fund or in the Homeland Security. He stated it fits in the Drinking Water State Revolving Fund and the Aquia nutrient removal upgrades fit under the Clean Waste/Water Study. He stated they have been classified and the County has given this to a committee to prioritize them and it would be going to the Governor and to the Hill for a meeting on Thursday and they are lobbying these things. He stated that did not prohibit anyone from putting anything in the State database. He stated how that falls in the rankings or fits in the criteria put out by the Feds, there was some flexibility in the State Flex Fund. He stated that gives you some perspective. He stated there are more projects both here and nation wide that can ever be covered by the stimulus package. In some places you have to apply to the State and other places you have to apply directly to the Feds.

Ms. Kurpiel asked where that project fit into the criteria.

Mr. Neuhard stated we do not know, we just heard about it today. He stated Mr. Baroody and the sub-committee was going through the analysis now. He stated according to Mr. Baroody this may fit in the State Stabilization Fund. He stated that did not prohibit it from going in the State database. He stated he spoke with Cord Sterling, who was on that sub-committee and advised him this issue came up today and Mr. Sterling was not sure where it would fit but would need to stand the test of fitting in somewhere. He gave a handout to the Committee and explained the chart. He stated most of it was infrastructure kinds of things, road issues, water quality issues, waste water and public safety.

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Mr. Apicella stated we have considered other projects. He stated he would like to have a list and consider some type of methodology, not just throw something out there.

Ms. Kurpiel asked what other projects would the PDR Committee have.

Mr. Apicella stated he did not know what other projects were out there because there was not list.

Mr. Neuhard stated he wanted to make sure the Committee understood what he thought Ms. Kurpiel was proposing. He stated he was not advocating this in any way. He stated what he heard was, we are trying to get 5 million dollars to put in a conservation easement anywhere in the County, five hundred acres of trees which is silvaculture land, not agricultural land.

Ms. Kurpiel stated she was trying to mitigate the impact of Rocky Pen Run by permanently protecting five hundred acres of forest.

Mr. Neuhard stated she was proposing to replace what the County was tearing down.

Ms. Kurpiel stated not adding.

Mr. Silver stated it looked like there should be, with everyone's attention to air and water quality, a law that if you go in and clear cut a big project you should have to replace it somewhere else.

Mr. Neuhard stated some of these items would be a year long process because the specific criteria was not out. He stated some of the criteria will be put out in sixty days and the County will have one hundred twenty days to make a proposal and a decision will be made in three hundred days. He stated you want to beat the March 6, 2009 deadline and put something in the database independent that was one thing. He stated if you wanted it to be considered with the County issues, it would need to go tomorrow night.

After a brief discussion by the Committee members, it was decided by consensus that the Committee would not pursue any application for stimulus money for replacement of trees removed for the reservoir.

7. Next Meeting

- March 24, 2009 Regular Meeting

Mr. Coen stated the next meeting will be March 24, 2009.

Ms. Clark stated she would not be attending.

Mr. Neuhard asked if there was anyone else who thought they may not be at the meeting.

Mr. Coen stated at the last meeting we had the minutes to deal with and asked if there were any nuances to the easement.

Mr. Neuhard stated staff will continue to bring issue to the Committee as they go through the process.

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Ms. Kurpiel stated she thought the ballot initiative would be on this agenda. She stated she understood staff was loaded down, but there was no way the Committee would get a ballot initiative unless it would be on this agenda.

Mr. Neuhard stated staff has worked on drafting the question and will put it on the agenda so we can report to the Committee.

Paul Milde asked if he could get back on the email list.

Mr. Neuhard stated the April meeting was scheduled on the night of the adjourned Board meeting for the adoption of the budget. He stated that may be a conflict because some are involved and may want to be in that meeting. He stated he wanted to warn the Committee because sometimes they were long meetings and sometimes they were short meetings. He stated it was not a regular Board meeting, it was an adjourned meeting.

Mr. Coen asked if it would be a good idea to switch the meeting date.

Mr. Neuhard stated yes.

8. Adjournment

With not further business to discuss the meeting was adjourned at 9:15 pm.